

REMARKS

Claims 1-18 are pending in the application. Claims 1-18 stand rejected. Claims 1, 3 – 6 and 18 are rejected under 35 U.S.C. 102 (b) as being anticipated by DE 19757745. Claims 9 – 10 and 12 are rejected under 35 U.S.C. 102 (b) as being anticipated by U.S. Patent No. 6,126,535. Claims 14 – 17 are rejected under 35 U.S.C. 102 (b) as being anticipated by DE Patent No. 19824966. Claims 2, 7, 8, 11 and 13 are rejected under 35 U.S.C. 103(a). The applicant hereby submits the above amendments and the below remarks, which are fully responsive to the Office Action. The applicant respectfully asserts that the claims are in condition for allowance. The applicant requests that the claims as amended proceed to allowance. Further, the Abstract and the Drawing are amended herein responsive to the Examiner's objections. Please enter the amendments as indicated herein.

Specifically, the Examiner objected to the Abstract, indicating that it was longer than 150 words. The Abstract has been amended above responsive to the objection. Fig.'s 5a and 5b were objected to by the Examiner and have been amended responsive to the objections and the specification was amended to coincide with the drawing as amended. Cleaned-up Replacement Sheets for the Drawing are also provided as part of the amendment. No new matter is added.

Claim 7 was objected to for reciting claim language that did not have proper antecedent basis due to inconsistent terminology "canal" and "channel". Claim 7 is amended herein to use a consistent term "channel".

The Examiner rejected claims 1, 3 – 6 and 18 under 35 U.S.C. 102(b) as being anticipated by DE Patent No. 19757745, where claims 1, 6 and 18 are independent. However, DE '745 does not anticipate each and every limitation of independent claims 1, 6 and 18 as amended; and therefore, does not anticipate each and every limitation of claims 3 – 5 depending from

independent claim 1. Specifically independent claims 1 and 6 as amended recite a limitation where the rotatable shaft is adapted to retract in the vacuum casing and extend through the vacuum casing thereby extending the cutting bit beyond the vacuum casing. This limitation is clearly disclosed in paragraph [0026] of the detailed specification and in the drawing. DE '745 clearly does not anticipate this limitation because the housing body (3) in the form of a suction nozzle whose leading head (5) and mounting (proximate 4) between the body (3) and the suction line (9) is not adapted with a feature allowing the bit to be retracted in the vacuum tube and extended back beyond the suction tube for engaging and disengaging the spinal cord material. This feature as claimed in the present application allows for greater maneuverability of the bit and better control over spinal cord engagement. This feature also facilitates pulling spinal cord material toward the vacuum tube opening for more efficient removal of the material. This limitation is also not taught or suggested by any of the references cited taken individually or in combination. Claims 1, and 3 – 6 as amended are in condition for allowance.

Claim 18 as amended recites a limitation for a tubular cutting blade cutting implement as clearly disclosed in paragraph [0039] of the detailed specification and in the drawing as an alternative embodiment. DE '745 does not anticipate this limitation but to the contrary teaches a milling tool (1). This feature also facilitates pulling spinal cord material toward the vacuum tube opening for more efficient removal of the material. This limitation is also not taught or suggested by any of the references cited taken individually or in combination. Claim 18 as amended is in condition for allowance.

The Examiner rejected claims 9 – 10 and 12 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,126,535, where claims 9 and 12 are independent. However, independent claims 9 and 10 recite limitations that are not anticipated by Post '535 and therefore dependent

claim 10 depending from independent claim 9 is not anticipated. Specifically independent claims 9 and 12 recite a limitation for a spiral cutting head implement linkage in the pull chain as clearly disclosed in paragraphs 11, 43 and 44 and in the drawing as item 520. The Examiner refers to items 15 and 18 in Fig 2A of Post '535 for anticipation of this limitation but no such limitation is shown in the Post apparatus. Therefore, Post does not anticipate this limitation. Further, this limitation is not taught or suggested by any of the references cited herein taken individually or in combination. Claims 9, 10 and 12 are in condition for allowance.

The Examiner rejected claims 14 – 17 under 35 U.S.C. 102(b) as being anticipated by DE Patent No. 19824966, where claims 14 and 17 are independent. However, DE '966 does not anticipate each and every limitation recited in independent claim 14 and 17 as amended and therefore, claims 13 – 16 depending from claim 14 is not anticipated. Specifically independent claims 14 and 17 as amended recite a limitation where the flexible high pressure tubing is adapted to retract in the vacuum casing and extend through the vacuum casing extending the high pressure nozzle beyond the vacuum casing. This limitation is clearly disclosed in paragraphs [0026] and [0040] of the detailed specification and in the drawing. DE '966 clearly does not anticipate this limitation because the configuration shown in Fig.'s 1 and 2 is not adapted with a feature allowing the bit or high pressure nozzle to be retracted in the vacuum tube and extended back beyond the suction tube for engaging and disengaging the spinal cord material. The apparatus taught by DE '966 teaches a flushing apparatus for a tube. The extension and retraction feature as claimed in the present application allows for greater maneuverability of the bit or high pressure nozzle and better control over spinal cord engagement. This limitation is also not taught or suggested by any of the references cited taken individually or in combination. Claims 14 -17 as amended are in condition for allowance.

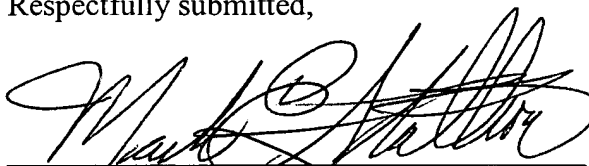
Claim 2, 7 and 8 are rejected under 35 U.S.C. 103 (a) as being unpatentable over the references cited taken in combination. However, none of the references taken individually or in combination teach or suggest the adaptation for retracting in and extending through as discussed above. Further claims 11 and 13 are rejected under 35 U.S.C. 103 (a) as being unpatentable over the references cited taken in combination. However, none of the references taken individually or in combination teach or suggest the spiral spring cutting head implement as discussed above. Therefore, claims 2, 7, 8, 11 and 13 are in condition for allowance.

The applicant respectfully requests that claims 1 – 18 as amended be allowed and proceed to issuance. If any issue regarding the allowability of any of the pending claims in the present application could be readily resolved, or if other action could be taken to further advance this application such as an Examiner's amendment, or if the Examiner should have any questions regarding the present amendment, it is respectfully requested that the Examiner please telephone Applicant's undersigned attorney in this regard.

Date:

Dec 20, 2004

Respectfully submitted,



Mark E. Stallion, Reg. No. 46,132
Blackwell Sanders Peper Martin LLP
720 Olive Street, 24th Floor
St. Louis, Missouri 63101
314-345-6223 (phone), 314-345-6060 (fax)

ATTORNEYS FOR APPLICANT

AMENDMENTS TO THE DRAWINGS:

The attached replacement sheets 1-4 of the drawing includes changes to Fig.'s 5a and 5b. These replacement sheets 1-4 replaces all of replaces the original sheets 1-7 including the same Fig.'s. The previously omitted item numbers 520 and 513 for the "spiral cutting head implement" and the "spinal channel" elements respectively as recited in the claims and as shown in Fig.'s 5a and 5b have been added responsive to the examiners objections. The replacement sheets 1-4 also provide cleaner versions of all the figures originally provided on sheets 1-7 of the drawing. No new matter is added.

Attachments: Replacement sheets of drawings
Annotated sheets of drawings showing changes.